

REMARKS/ARGUMENTS

Upon entry of the above amendment, claims 1-11 will not have been amended. An executed Terminal Disclaimer will have been submitted. In view of the above, Applicant respectfully requests reconsideration of the outstanding rejection of all the claims pending in the present application. Such action is respectfully requested and is now believed to be appropriate and proper.

Initially, Applicant would like to express his appreciation to the Examiner for the detailed Official Action provided.

Turning to the merits of the action, the Examiner has rejected claims 1-11 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 6,710,894 in view of BEAK et al. (U.S. Patent No. 5,798,845).

In response, Applicant is filing concurrently herewith, a Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c) to obviate the judicially created double patenting rejection. The Terminal Disclaimer includes a provision that any patent granted on the present application shall be enforceable only for and during such period that said patent is commonly owned with the patent which formed the basis for the rejection.

While Applicant is filing the above-noted Terminal Disclaimer to render the Examiner's outstanding rejection moot, Applicant does not, by such filing in any manner acquiesce in the propriety of the Examiner's rejection. In particular, neither Applicant nor the Assignee in any manner agree with the propriety of the Examiner's judicially created doctrine of obviousness type double patenting rejection of any of the claims in the present application over U.S. Patent No. 6,710,894 in view of BEAK et al. Rather,

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Applicant is filing the executed Terminal Disclaimer merely in order to expedite the allowance of the present application towards allowance.

Moreover, Applicant respectfully submits that there are adequate and sufficient reasons for the patentability of the claims in the present application even without the filing of the above-noted Terminal Disclaimer. As an example, the present invention relates to an image data communication apparatus that transmits image data attached to an e-mail via a network. In direct contrast, BEAK et al. is directed to a conventional facsimile apparatus that transmits over conventional telephone lines. The Examiner has set forth no proper motivation for utilizing isolated features from the automatic dialer of BEAK et al. in the image data communication apparatus of OGAWA.

Nevertheless, Applicant is submitted an executed Terminal Disclaimer to expedite the allowance of the claims in the present application.

Applicant notes the Examiner's reference in paragraph 3 to "newly added claim 16". In this regard, Applicant submits that claims 1-10 have been pending in the present application since the application was filed and that there is no claim 16, newly or otherwise in the present application.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection and an indication of the allowability of all the claims pending in the present application, in due course.

Applicant further wishes to make of record a telephone interview conducted on November 3, 2005 in co-pending Application No. 10/767,719. During the above-noted interview, Applicant's undersigned representative discussed the merits of the above-noted application, which, as has been previously pointed out to the Examiner, and as

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the Examiner is undoubtedly aware, is one of 15 continuations of parent Application No. 09/461,402, now U.S. Patent No. 6,710,894. During the interview Applicants also noted that each of the above-noted continuations as well as the above-noted parent application are being examined by the same Examiner. During the above-noted interview, the Examiner indicated that he is aware of each of the applications and the various references of record therein. Also during the above-noted interview, Applicant's undersigned representative asked the Examiner to ensure that the record is complete in each of these 15 applications by cross-citing each of the references cited in any of these applications into each of the other applications. The Examiner agreed to do so and Applicant agreed to facilitate such cross-citation by periodically updating the references cited in these various applications by the Examiner.

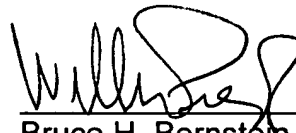
Accordingly, attached to the present Response, Applicant is providing a PTO-1449 Form in which various references cited in recently issued Office Actions in various ones of these 15 continuation applications are listed. The Examiner is respectfully requested to initial the attached PTO-1449 Form to confirm consideration of these documents. The Examiner is respectfully thanked for his cooperation in this matter which will enable the record in the present application to be complete and to accurately indicate that the Examiner has considered all of these references that were cited in individual ones of these applications with respect to the claims in each of the applications.

SUMMARY AND CONCLUSION

Applicant has made a sincere effort to place the present application in condition for allowance and believes that he has now done so. Applicant has filed a Terminal Disclaimer to obviate the judicially created double patenting rejection. Accordingly, Applicant respectfully requests an indication of the allowability of all the claims pending in the present application in due course.

Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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